

DELEGATED DECISION REPORT

SMD/2025/0469
Valid 17/11/2025

**SWALLOW VIEW UTTOXETER
ROAD
DRAYCOTT IN THE MOORS**

**CERTIFICATE OF LAWFULNESS
FOR A PROPOSED RESIDENTIAL
CARE HOME FOR UP TO TWO
CHILDREN WITH CARE PROVIDED
BY UP TO THREE NON-RESIDENT
MEMBERS OF STAFF**

**(CERTIFICATE OF LAWFULNESS -
PROPOSED)**

MAIN ISSUES

- Whether or not the proposal constitutes a material change of use

DESCRIPTION OF SITE

Swallow View is a large, two-storey, detached dwelling. The Planning Statement informs that the property is a 5 bedroom house, the submitted floorplans show that there are 4 bedrooms at first floor level and further accommodation within the roof space. At the front of the house there is a large, block paved driveway and to the side and rear there is a large garden (including patio area). the property is within the Green Belt and a low-risk, coal development area. The Dwelling is not listed, nor is it within any Conservation area.

PROPOSAL

The application is for a certificate of lawfulness for a residential care home for up to 2 children with care provided by up to 3 non-resident members of staff. The Supporting Statement offers the following further information.

'The children's home would be occupied by up to two children aged between 5 and 18 years, who are for various reasons are unable to live with their parents but are not old enough to live independently. They would live at the property as their main residence. The children would be looked after by three carers at a time. The carers would work shifts, during which they would sleep and take meals at the property. At the end of their shift, they would be replaced by another three carers. The floating manager will attend the property between 9am and 5pm. Outside of these hours they would remain on call.

The children and carers would effectively be living in the house as a family. Each child would have their own bedroom, and the two carers would share. The bathroom, living room. The dining room would be shared by the children and their carers. The children and carers would take meals together, and in the daytime the children would attend local schools. Children and carers would interact with each other at the property in a very similar manner to a family unit.

Vehicle trips for day to day living activities such as shopping, school runs and social outings for the children would be undertaken by the carers and, as with any family dwelling, shopping may also be ordered online for delivery.

No external alterations to the property are required or proposed, and there would be no changes to the layout of the property internally.

The children's home will be licenced by Ofsted and will be managed and operated in strict accordance with their guidelines and requirements. The current lawful use of the property falls within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Currently exclusively used as holiday let. As well as allowing for conventional family occupation, Class C3 also allows for residential uses involving an element of care. It includes use as a dwelling house (whether or not as a sole or main residence) by "not more than six residents living together as a single household where care is provided for residents".

In North Devon District Council v First Secretary of State [2003], it was found that unless at least one adult is in permanent residence at the property, the occupants cannot be regarded as a household in the true sense. In accordance with the Judgement in North Devon District Council v First Secretary of State [2003] it is therefore clear that in this case the proposals do not fall within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Instead they fall within Class C2. However, it is well established in case law that regardless as to whether a proposed use falls within an entirely different use class, or no use class at all, development requiring planning permission will only take place if there is a material change of use. The key question in this instance is therefore whether the proposed use of the property as a residential children's home as submitted would be materially different from its lawful use as a dwelling house, which may or may not include an element of care.

In this instance the property is a 5 bedroomed dwelling set within a generous plot. It is comfortably capable of accommodating a large family, which would not necessarily be limited to a maximum of six people by Class C3 of the Use Classes Order. It is also clear that it would be capable of accommodating the proposed use as a residential children's home with permanent live-in carers, and that in these circumstances both the existing and proposed uses would fall within the broader remit of Class C3.

The children and carers would live in a very similar manner to a family. The applicant's intention is to enable children in care to live as normal a life as possible within the community. The proposal seeks to create a 'family-orientated' environment where children thrive and achieve positive outcomes. Children and their carers would take meals together at the dining table, socialise together and share the communal space within the property in exactly the same manner as a conventional household. Carers would, depending on the age of the resident children, get them ready for and take them to school, take them to doctor's appointments and carry out other duties typically associated with a parent or guardian.

It is not anticipated that the permanently resident children would live in the property on a short-term basis. The proposals seek to create a stable living environment as opposed to emergency short-term accommodation.

The proposals would not result in materially greater impacts than the lawful use of the property as a dwelling house. The permanently resident children will not have a car. Carers will drive to and from the site, and during their stay will be responsible for taking children to school, appointments, social outings and shopping trips. Overall trip generation is likely to be very similar to that associated with a dwelling of this scale, where both parents and older children may have cars of their own. There is space on site for comfortable parking of 5 cars, and uncomfortable parking (blocking each other in) of 10 cars without blocking the access to the property or the neighbouring property which is comfortably sufficient to accommodate vehicles associated with the proposed use. The proposals would not result in any greater noise or disturbance than a conventional family home. The resident children would not be detained offenders or have any medical or clinical condition requiring secured facilities or hands on attention. Their carers are simply required because they are too young to live independently. No other internal or external alterations to the property are required or proposed.

On balance, despite the proposed use falling outside of Class C3 of the Use Classes Order, it is not considered that in this instance the use of the property as a residential children's care home as described in this application would be measurably or materially different in nature than its established use as a dwelling house. The use of the property as a dwelling house falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) is established and is lawful. The proposed use as a residential children's home does not fall within Use Class C3, since the lack of

any permanent adult resident means that the occupiers cannot be regarded as a household in the true sense.

However, the proposed use would not be materially different in character or nature than the use of this large 5 bedroomed property as a family home. Section 57 of the Town and Country Planning Act 1990 prescribes that planning permission is required for the development of any land. It follows that where no development has occurred, planning permission is not required. Section 55 of the Town and Country Planning Act 1990 defines development as "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

On balance the proposals would not constitute a material change of use. Since no development is involved, it follows that in this instance the proposals do not constitute development, and that in accordance with Section 57 of the Town and Country Planning Act 1990 planning permission is not required in this instance.

As such, it is therefore respectfully requested that a Certificate of Lawfulness be issued.'

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None.

CONSULTATIONS

There is no statutory requirement to consult third parties on applications such as this. However, it can be useful to the Local Authority to undertake some consultation. In this instance it was decided to display a site notice (consultation period expired) and notify Draycott Parish Council. Staffordshire County Council Highways Department and SMDC's Environmental Health team have also been consulted. It is noted that any representations regarding the planning merits (or otherwise) of the application cannot be considered, as this application is to be determined on the basis of whether the proposal is lawful within the terms of the Use Classes Order 1987.

Publicity

Site Notice. Expired.

Neighbour consultation period. Expired.

Public Comments

No representations received.

Draycott Parish Council

No representations received.

Environmental Health

No objections.

Staffordshire County Council Highways

Recommendation Summary: Acceptance

Site Visit Conducted on: 26-Nov-2025

Notes to Planning Officer

Application is for Certificate of Lawfulness for use of an existing dwelling as a residential care children's home for two children. Swallow View is an existing 5 bedroomed dwelling. It would be entirely possible and reasonable for two children to be living in a 5 bedroomed dwelling as part of a family group. No alterations or extensions are proposed to Swallow View. It could equally be used by a large or extended family under its current planning use.

3 staff working shifts are expected. The dwelling and its access off Uttoxeter Road are existing. Swallow View is set back from Uttoxeter Road in a private access shared with the adjacent dwelling. This is the current situation, no changes are proposed and would be the situation for use as a residential dwelling or a children's residential care home. Visibility at the access is adequate. Parking is not referred to. However, observations on site suggest that potentially up to seven vehicles could be accommodated clear of Uttoxeter Road without obstructing the shared access. This will be more than adequate for the proposed use.

Trip generation profile may be different for a children's residential care home when compared to a dwelling, with adults/staff visiting the home rather than leaving it. However, that does not equate to an increase in trips that could be considered severe. Children would need to be transported whether part of a family or residents of a care home. Visitors are likely, as they would be for a family home. Regardless of the trip profile, the effect of use of an existing dwelling as a residential care home could not be described as having a severe effect on the highway. Current records show that there was 1 personal injury collision (PIC) on Uttoxeter Road within 120 metres either side of the proposal in the previous five years. Although all PICs are regrettable, the overall volume of collisions does not suggest there are any existing safety problems that would be exacerbated by the proposed development.

Staffordshire Police
No objections.

OFFICER COMMENTS

Class C3 'Dwellinghouses' of 'The Town and Country (Use Classes) Order 1987' categorises the use of any dwellinghouse as any of the following.

Class C3a: A single person or by a family to be regarded as forming a single household;

Class C3b: Not more than six residents living together as a single household where care is provided for residents; or

Class C3c: Not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

It is clear that the building was constructed for the purposes of use as a dwellinghouse. No extensions or external alterations are proposed. No internal alterations are proposed.

The application property would not be the adults' main residence and due to the ages of the children and fact that they are unlikely to be related, the residents could not be classed as a family for the purposes of Class C3a. In terms of whether the proposal falls within Class C3b, case law (North Devon District Council v First Secretary of State [2003]) (Mr Justice Collins) has established that carers who do not live at the property as their main residence cannot be the adults who can establish a 'household.' In this case the Supporting Statement informs that carers would be at the site on a shift basis. The Supporting Statement makes it clear that the application property is not to be the main residence of any of the staff, therefore proposal cannot fall within the scope of Class C3b. The proposal does not comply with Class C3c as care is being provided.

It is well established by the courts that, notwithstanding whether the use might fall within Class C3, a different use class, or no class at all, planning permission will not be required, if the change of use would not be a 'material change' of use. The North Devon case established that the Local Planning Authority were, on the facts of that case, entitled to arrive at a conclusion that a material change of use had not occurred. The Local Planning Authority must still consider whether the change of use proposed would be 'material'. If the change of use is not material then a Certificate of Lawfulness should be granted.

Westminster CC v Great Portland Estates [1985] AC 661 determined what must be considered is the character of the use of the land. Hertfordshire DC v SSCLG [2013] EWCA Civ 1473 established that it

is relevant to consider not only the on-site effects but also the off-site effects of the character of the use. It is a matter of fact and degree, in the circumstances of an individual case, as to whether a change of use will be material and therefore require planning permission. "The Act" does not define 'material change of use' and therefore, it is necessary to exercise some considered judgement in individual cases. Differences which might be considered 'material' are those which are measurable or quantifiable as resulting in a significant or substantial change or step up in the character or impact of a use.

Swallow View is a 4/5 bedroom dwelling. 4 bedrooms are located on the first floor and there is further accommodation within the roof space (although the submitted floorplans do not clearly mark the loft space as a bedroom). A separate bathroom is on the first floor. At ground floor level there is a kitchen, dining room, living room, utility and cloak room. The dwelling benefits from generously sized external amenity space and there is a large off-road, parking and turning area at the front of the house. The dwelling could easily be occupied by a family of 6/7 members. Up to 6 people could occupy the property under Class C3c.

The situation regarding this proposal is that there could be up to 9 people at the property at shift change over, assuming the shifts change at the same time. The 6 members of staff (potentially 3 taking over the shift of the 3 already on duty), the 2 children and the care manager if she/he happens to be on site at the same time. In reality this number of people are highly unlikely to be on the site for any prolonged period of time, staff shifts will change (change over is not necessarily at the same time) and those finishing work will leave the property. 9 people at the property at any one time is not particularly excessive when it is considered a large family could live at Swallow View and have visitors at the same time as every family member was home. The numbers could easily be akin to those associated with any family living at a large property if they have visitors. The number of people at the property overnight would be up to 5, and for a 4/5 bedroom this is not excessive.

As with the occupancy of any dwelling, there would be comings and goings associated with everyday life, including vehicle movements. Instances where journeys to and from the property would be necessary include (but not necessarily limited to) going to school, social activities, shopping and medical appointments. The comings and goings from such activities would not be significantly different to a general household living in a property of this size. The County Highways officer has reviewed the application. Whilst this scheme cannot be assessed as if it were a planning application, the views of the Highways officer are important to assess whether or not the onsite parking can accommodate the number of people who would be at the site. The Highways officer's comments can be read in full within the 'Consultations' section of this report. Essentially it is considered that there is sufficient on-site parking space for up to 7 vehicles without obstructing the shared access with the neighbouring dwelling. The Highways officer opines that the use of Swallow View as a care home would not have any severe effect on this highway.

CONCLUSION / PLANNING BALANCE

The lawful use of a dwellinghouse, included at Class C3 of "the UCO 1987", is broad in scope and could in association bring with it considerable activity, associated and ancillary use, or vehicle movement. The prevailing character of the proposed use would be that of up to two children living together and using the property in a similar way to that of a family home where they would be supervised and cared for by adult guardians. While there might be identifiable differences, between proposed and existing uses, these would not be 'material' against the rather flexible characteristics and impacts of a lawful dwellinghouse.

OFFICER RECOMMENDATION : Approve.

Case Officer: Lisa Jackson

Recommendation Date: 12.1.2026.

X *Jane Curley*

Signed by: Jane Curley

On behalf of Staffordshire Moorlands District Council